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6 Attorneys for Defendants City of Hayward,
Lloyd Lowe, and Jason Corsolini

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

10 MARIA JOYA, individually, and as) Case No.: C 07 -04739 (SI)
11 Adminstrator of the Estate of NASIR)
12 SOLIS,) DECLARATION OF RANDOLPH S. HOM
13)
14 Plaintiffs,)
15)
16 -vs-)
17)
18 CITY OF HAYWARD, et al.,)
19)
20 Defendants.))

DECLARATION OF RANDOLPH S. HOM

18 || I, RANDOLPH S. HOM, declare that:

19 I am licensed to practice before the United States District Court, Northern District, and
20 that I have personal knowledge of the facts set forth herein, except those facts set forth on
21 information and belief, and that if called as a witness in this case, I could and would competently
22 testify as follows:

23 1. I am an attorney with the City of Hayward City Attorney's Office, and our office
24 is responsible for handling the defense of defendants City of Hayward, Lloyd Lowe, and Jason
25 Corsolini in the within action.

26 2. Plaintiff, Maria Joya, is the surviving mother of the decedent, Nasir Solis, and
27 plaintiff, Saleh Ali, is his surviving father. On September 13, 2007, **Joya** e-filed her **complaint**,
28 which is a verbatim duplicate of the Ali complaint, including each and every allegation and

1 **each cause of action**, with the case assigned to the Honorable Susan Illston. On September 28,
 2 2007, Joya personally served her complaint on defendants. On October 16, 2007, defendants
 3 answered the complaint.

4 3. On October 19, 2007, Ali served his complaint via United States mail on
 5 defendants. It should be noted that plaintiff filed a proof of service indicating personal service of
 6 the complaint on a “Jane Doe” on the fourth floor of Hayward City Hall on September 25, 2007.
 7 Defendants’ counsel never received the complaint that was purportedly personally served. In the
 8 spirit of facilitating the adjudication of the matter, and since defendants already had answered the
 9 duplicative complaint in Joya, defendants answered the mail served complaint in the Ali action
 10 on October 31, 2007, rather than formally contest service of process.

11 4. On October 31, 2007, defendants counsel forwarded plaintiff’s counsel in Joya
 12 and Ali a stipulation to mediate the dispute and forwarded a draft joint case management
 13 conference statement. Again in the spirit of facilitating the adjudication of the matter, rather than
 14 waiting until the December 12th deadline, on October 31, 2007, defendants declined to proceed
 15 before Magistrate Judge Edward M. Chen.

16 5. On November 2, 2007, the case was reassigned to the Honorable Charles R.
 17 Breyer. On November 7, 2007, at the Court’s request, Ali filed an electronic version of his
 18 complaint. After normal business hours, on November 8, 2007 at 5:27 p.m., Ali’s counsel
 19 proposed via electronic mail that the within matter be consolidated with Joya v. City of Hayward,
 20 with the Ali matter serving as the lead case. Defendants’ counsel was on vacation from
 21 November 9 through November 25, 2007. On November 28, 2007, defendants’ counsel advised
 22 Ali’s counsel that he is amenable to consolidating the matters with Joya serving as the lead case,
 23 with the Honorable Susan Illston presiding. Since defendants did not accept plaintiff’s proposal,
 24 Ali’s counsel characterized defendants’ decision to not proceed before a Magistrate as improper

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1 "forum shopping".

2 I declare under penalty of perjury pursuant to the laws of the United States of America
3 that the foregoing is true and correct.

4 _____ EXECUTED on this 12th day of December 2007, at Hayward, California.

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6 _____ /S/
7 **RANDOLPH S. HOM**
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